

LAND BOARD AGENDA ITEM

Request for Preliminary Consideration of the DNRC/Rocky Boy Land Exchange

April 16, 2007

- PROPOSAL:** The Department of Natural Resources and Conservation (DNRC) requests preliminary consideration by the Land Board to explore a land exchange with the Chippewa Cree tribe.
- LOCATION:** The land is located in Hill County and the proposal by the Chippewa Cree tribe is to exchange 1440± acres of trust land (within the reservation boundary classified grazing) for 320 acres of Tribal land currently used as cropland (see attached maps).
- BENEFICIARY:** Common Schools
- BACKGROUND:** The following is a preliminary examination of the Rocky Boy Land Exchange under the seven land exchange criteria established by the Board of Land Commissioners.

PUBLIC INVOLVEMENT PROCESS AND RESULTS:

On March 16, 2007 a series of public notices were published in the Havre Daily News. A letter was sent to the lessee of the trust land informing him of the proposed exchange. Public response has been limited.

Public comment was solicited through a legal notice in the Havre Daily News, and letters sent to existing state and tribal lessees, all adjacent landowners, and the Bureau of Indian Affairs. Issues raised included the relative value, disparity in size, difference in productivity, and income potential of the land proposed for exchange. Once proposal details have been refined, additional opportunities for public participation will take place. Input received during those efforts would be used to complete an environmental analysis on the proposal.

Department resource specialists have completed a preliminary review the proposed exchange. At this time there are no outstanding issues that would prevent further examination of the exchange.

Preliminary review of the exchange parcels document how the land exchange meets or exceeds all of the relevant criteria for a land exchange as set forth in the LAND EXCHANGE POLICY revised December 20, 2004 by the Montana Board of Land Commissioners:

Equal or Greater Value

Based on discussions with real estate professionals familiar with the area, and the acreage difference, the trust land would likely exceed the value of the land the Tribe is offering. An appraisal of the properties offered for exchange would be conducted and acreage and parcels could be adjusted to meet this criterion. Equal value for exchange with tribal governments is stipulated in 77-2-201 (2) MCA.

Can be modified to meet criteria.

State Land Bordering on Navigable Lakes and Streams

Neither the state trust land nor the proposed tribal land border navigable lakes or streams. None of the water resources existing on these tracts has significant public use values.

Meets criteria.

Equal or Greater Income to the Trust

The existing state trust lands are used for livestock grazing. This land generates an annual rental income of \$2,572. The Tribal land offered in exchange generates \$4,000 income annually. Thus, the proposed land exchange would provide greater income to the school trust than the existing state land.

Meets criteria.

Equal or Greater Acreage

The land exchange policy favors exchanges that do not reduce the total amount of State land. The proposed exchange of 1,440 acres of state land for 320 acres would result in a net loss of 1,120 acres, so does not meet this criterion. The acreage may be adjusted as the exchange is finalized. The Land Board has some discretion in this matter.

Article X (4) of the Montana Constitution states "All public land shall be classified by the board of land commissioners in a manner provided by law. Any public land may be exchanged for other land, public or private, which is equal in value and, as closely as possible, equal in area".

Does not meet criteria. May be adjusted as exchange proceeds.

Consolidation of State Lands

The land exchange policy favors exchanges that consolidate state land holdings. The proposal is to exchange a consolidated block of 1,440 acres of trust land within reservation boundaries for two noncontiguous 160 acre parcels that are isolated from state trust land. It is desirable for DNRC to reduce acreage owned within the boundary of the reservation.

Does not meet criteria, may be mitigating factors.

Potential for Long Term Appreciation

Neither property is likely to rapidly appreciate in value. Both properties are remote rural land that will likely be continued to be used for livestock grazing and agriculture for the foreseeable future.

Meets criteria.

Access

The existing State land has legal access from a county road which provides the potential for competitive bidding for livestock grazing. Although there is access, no competitive bidding has occurred in the past. Public access for recreational use of the state land is restricted by its location within the Rocky Boy Reservation where recreational use is regulated by the Chippewa Cree Tribe.

The tribal land proposed for exchange exists in two separate 160 acre parcels. The more northerly of the two parcels adjoin a county road on the eastern boundary of the property. The more southerly parcel offered in exchange does not border a county road. Unique to Hill County is a county ordinance that provides for legal access along designated section lines. Thus, legal access may exist via this section line ordinance. Further exploration of access is needed to determine if this parcel has legal access.

May meet criteria.

DEPARTMENT RECOMMENDATION: Although the land exchange as proposed may not meet all of the criteria, the Department recommends preliminary approval of the land exchange. Under further analysis, the Tribe may either propose additional acreage or reducing trust land acreage to equalize the values as mitigation factors for the remaining criteria.

Land Ownership Map Showing Parcels of the Proposed Rocky Boy Land Exchange

